

RESOLUTION NO. 204292

BOND RESOLUTION DATED OCTOBER 21, 2004.

A RESOLUTION AUTHORIZING THE ISSUANCE OF \$7,860,000 SERIAL BONDS OF THE COUNTY OF DUTCHESS, NEW YORK, TO PAY PART OF THE COUNTY'S COST OF A RESERVATION OF ONE-HALF OF THE TOTAL CAPACITY OF THE PROPOSED CENTRAL DUTCHESS WATER TRANSMISSION MAIN TO BE CONSTRUCTED BY THE DUTCHESS COUNTY WATER AND WASTEWATER AUTHORITY

WHEREAS, Title 6-C of Article 5 of the Public Authorities Law (the "Authority Act") establishes the Dutchess County Water and Wastewater Authority (the "Authority"). The Authority Act authorizes the Authority to construct, sell capacity in and operate and maintain a "water facility", as therein defined (a "Water Facility"). Section 1125 of the Authority Act authorizes the County and the Authority to contract, from time to time, in relation to the reservation of capacity for the County in any Water Facility to be constructed by the Authority to assure the availability to the County of the use of any Water Facility; and

WHEREAS, the Authority has proposed a project, which has been reviewed by this County Legislature pursuant to Section 1124(6) of the Authority Act, which project consists of the construction of a Water Facility, consisting of an approximately 13 mile water transmission main with an estimated capacity of ten (10) million gallons per day ("MGD") from a connection point at Overrocker Road in the Town of Poughkeepsie, principally along and through the former railroad corridor right of way commonly known as the Maybrook Rail Branch Line and public highways, to Gate 1 of the IBM Hudson Valley Research Park on the south side of Route 52, Town of East Fishkill (the "Main"), and a certain Authority pump station with an estimated capacity to deliver six (6) MGD (the "Authority Pump Station") to be constructed at a point

along such water transmission line (collectively, the “Central Dutchess Water Transmission Main”); and

WHEREAS, the County and the Authority, by Agreement authorized by this County Legislature on this date, have agreed that the Authority will construct and thereafter maintain the Central Dutchess Water Transmission Main and that the County will acquire a reservation of capacity in the Central Dutchess Water Transmission Main, consisting of a reservation of one-half of the total capacity of the Central Dutchess Water Transmission Main, such acquisition assuring the availability to the County for future anticipated use of the Central Dutchess Water Transmission Main by municipalities and person along or connecting to the Central Dutchess Water Transmission Main of a transmission main for the delivery of potable water, as such municipalities and person may, from time to time, require; and

WHEREAS, by Bond Resolution No. 202138 of 2002, Bond Resolution dated May 13, 2002, the County Legislature authorized the issuance of \$3,000,000 serial bonds to pay the County’s cost of a reservation of capacity of the proposed Central Dutchess Water Transmission Main; and

WHEREAS, the County has now determined to acquire a reservation of capacity equal to one-half of the total capacity of the proposed Central Dutchess Water Transmission Main and, based upon completion of detailed plans and specifications and receipt of bids, an additional \$7,860,000 will be necessary therefore; and

WHEREAS, all conditions precedent to the financing of such acquisition of capacity, including compliance with the provisions of the State Environmental Quality Review Act, have been performed; and

WHEREAS, it is now desired to authorize the financing of such acquisition of capacity;
NOW, THEREFORE

BE IT RESOLVED, by the County Legislature of the County of Dutchess, New York, as follows:

Section 1. For the specific object or purpose of paying part of the County's cost of a reservation of one-half of the total capacity of the proposed Central Dutchess Water Transmission Main, as more fully described in the preambles hereof, including incidental expenses in connection therewith, there are hereby authorized to be issued \$7,860,000 serial bonds of the County of Dutchess, New York, pursuant to the provisions of the Local Finance Law

Section 2. It is hereby determined that the maximum estimated cost of the aforesaid specific object or purpose is \$10,860,000, and that the plan for the financing thereof is as follows: (a) by the issuance of the \$3,000,000 serial bonds authorized to be issued for such project by Resolution No. 202138 of 2002, Bond Resolution dated May 13, 2002; and (b) by the issuance of the \$7,860,000 serial bonds authorized to be issued pursuant to the provisions of this bond resolution.

Section 3. It is hereby determined that the period of probable usefulness of the aforesaid specific object or purpose is forty years, pursuant to subdivision 1 of paragraph a of Section 11.00 of the Local Finance Law, computed from December 18, 2002, the date of issuance of the first obligations issued for such project.

Section 4. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the serial bonds herein authorized, including renewals of such notes, is hereby delegated to the Commissioner of Finance, the chief fiscal officer. Such notes shall be of such terms, form and

contents, and shall be sold in such manner, as may be prescribed by said Commissioner of Finance, consistent with the provisions of the Local Finance Law.

Section 5. The faith and credit of said County of Dutchess, New York, are hereby irrevocably pledged for the payment of the principal of and interest on such bonds as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year. There shall annually be levied on all the taxable real property of said County a tax sufficient to pay the principal of and interest on such bonds as the same become due and payable.

Section 6. Such bonds shall be in fully registered form and shall be signed in the name of the County of Dutchess, New York, by the manual or facsimile signature of the Commissioner of Finance and a facsimile of its corporate seal shall be imprinted or impressed thereon and may be attested by the manual or facsimile signature of the County Clerk.

Section 7. The powers and duties of advertising such bonds for sale, conducting the sale and awarding the bonds, are hereby delegated to the Commissioner of Finance, who shall advertise such bonds for sale, conduct the sale, and award the bonds in such manner as he or she shall deem best for the interests of the County; including, but not limited to, the power to sell said serial bonds, including the serial bonds authorized by Bond Resolution dated May 13, 2002, to the New York State Environmental Facilities Corporation, provided, however, that in the exercise of these delegated powers, he or she shall comply fully with the provisions of the Local Finance Law and any order or rule of the State Comptroller applicable to the sale of municipal bonds. The receipt of the Commissioner of Finance shall be a full acquittance to the purchaser of such bonds, who shall not be obliged to see to the application of the purchase money.

Section 8. All other matters, except as provided herein relating to such bonds including determining whether to issue such bonds having substantially level or declining annual debt service and all matters related thereto, prescribing whether manual or facsimile signatures shall appear on said bonds, prescribing the method for the recording of ownership of said bonds, appointing the fiscal agent or agents for said bonds, providing for the printing and delivery of said bonds (and if said bonds are to be executed in the name of the County by the facsimile signature of the Commissioner of Finance, providing for the manual countersignature of a fiscal agent or of a designated official of the County), the date, denominations, maturities and interest payment dates, place or places of payment, and also including the consolidation with other issues, shall be determined by the Commissioner of Finance. It is hereby determined that it is to the financial advantage of the County not to impose and collect from registered owners of such serial bonds any charges for mailing, shipping and insuring bonds transferred or exchanged by the fiscal agent, and, accordingly, pursuant to paragraph c of Section 70.00 of the Local Finance Law, no such charges shall be so collected by the fiscal agent. Such bonds shall contain substantially the recital of validity clause provided for in section 52.00 of the Local Finance Law and shall otherwise be in such form and contain such recitals in addition to those required by section 52.00 of the Local Finance Law, as the Commissioner of Finance shall determine.

Section 9. The power to issue and sell notes to the New York State Environmental Facilities Corporation pursuant to Section 169.00 of the Local Finance Law is hereby delegated to the Commissioner of Finance. Such notes shall be of such terms, form and contents as may be prescribed by said Commissioner of Finance consistent with the provisions of the Local Finance Law.

Section 10. The Commissioner of Finance is hereby further authorized, at his sole discretion, to execute a project financing and loan agreement, and any other agreements with the New York State Department of Environmental Conservation and/or the New York State Environmental Facilities Corporation, including amendments thereto, and including any instruments (or amendments thereto) in the effectuation thereof, in order to effect the financing or refinancing of the specific object or purpose described in Section 1 hereof, or a portion thereof, by a serial bond, and, or note issue of said County in the event of the sale of same to the New York State Environmental Facilities Corporation.

Section 11. The intent of this resolution is to give the Commissioner of Finance sufficient authority to execute those applications, agreements, instruments or to do any similar acts necessary to effect the issuance of the aforesaid serial bonds, including the serial bonds authorized by Bond Resolution dated May 13, 2002, and, or notes without resorting to further action of this County Legislature.

Section 12. This resolution shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150 - 2. Other than as specified in this resolution, no monies are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.

Section 13. The validity of such bonds and bond anticipation notes may be contested only if:

- 1) Such obligations are authorized for an object or purpose for which said County is not authorized to expend money, or
- 2) The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with, and an action, suit or proceeding

contesting such validity is commenced within twenty days after the date of such publication, or

- 3) Such obligations are authorized in violation of the provisions of the Constitution.

Section 14. This resolution, which takes effect immediately, shall be published in full in the *Poughkeepsie Journal* and *The Poughkeepsie Beat*, the official newspapers of said County, together with a notice of the Clerk of the County Legislature in substantially the form provided in Section 81.00 of the Local Finance Law.

* * * * *

STATE OF NEW YORK)
) ss.:
COUNTY OF DUTCHESS)

I, the undersigned Clerk of the County Legislature of the County of Dutchess, New York,
DO HEREBY CERTIFY:

That I have compared the annexed extract of the minutes of the meeting of the County Legislature of said County, including the resolution contained therein, held on October 21, 2004, with the original thereof on file in my office, and that the same is a true and correct transcript therefrom and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that said County Legislature consists of 35 members; that the vote on the foregoing resolution was _____ ayes and _____ noes, with _____ members being absent or abstaining from voting.

I FURTHER CERTIFY that the foregoing resolution as adopted by said County Legislature was duly approved by the County Executive of said County on October ____, 2004, in accordance with the provisions of Section 3.02 of the Dutchess County Charter.

I FURTHER certify that all members of said Legislature had due notice of said meeting, and that, pursuant to Section 103 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public, and that I duly caused a public notice of the time and place of said meeting to be given to the following newspapers and/or other news media as follows:

Newspaper and/or other news media

Date given

and that I further duly caused public notice of the time and place of said meeting to be conspicuously posted in the following designated public location(s) on the following dates:

Designated Location(s)
of posted notice

Date of Posting

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County
on October _____, 2004.

Clerk, County Legislature

(CORPORATE
SEAL)

The foregoing resolution was duly put to a vote which resulted as follows:

AYES:

NOES:

ABSENT:

The resolution was thereupon declared duly adopted.

* * * * *

LEGAL NOTICE

NOTICE IS HEREBY GIVEN that the resolution published herewith has been adopted by the County Legislature of the County of Dutchess, New York, on October 21, 2004, and the validity of the obligations authorized by such resolution may be hereafter contested only if such obligations were authorized for an object or purpose for which said County is not authorized to expend money, or if the provisions of law which should have been complied with as of the date of publication of this notice were not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of publication of this notice, or such obligations were authorized in violation of the provisions of the Constitution.

Dated: Poughkeepsie, New York,
October ____, 2004.

Clerk, County Legislature

At a regular meeting of the County Legislature of the County of Dutchess, New York, held at _____, in Poughkeepsie, New York, in said County, on October 21, 2004, at _____ o'clock P.M., Prevailing Time.

The meeting was called to order by _____, and upon roll being called, the following were present:

PRESENT:

ABSENT:

The following resolution was offered by _____, who moved its adoption, seconded by _____, to-wit: